

unit I call the consumer bureau. Their job is to promulgate the rules and regulations with respect to consumer protections, not only for national banks or State-chartered banks, not just for credit unions or nonbank banks but for all of the above. That is a big part of the job. The job of the new consumer bureau is to promulgate rules and regulations going forward to protect consumers.

Does that entity have an enforcement responsibility as well? Yes, they do. Under the bill as it came to the floor, they would have the obligation for enforcing, among the largest national banks—roughly 100—the rules and regulations with respect to consumer protection which they promulgate.

I like to think of about three or four entities. One is nonbank banks, a second is credit unions, third is State chartered banks, and the fourth is the national banks. Of those four, the one for sure the consumer bureau actually enforces the rules that will be promulgated is with national banks and the largest ones there. Most of the banks we have in this country are State chartered. Under current law and under this legislation, not only would their safety and soundness regulator, the FDIC, be the regulator for consumer protections, but under current law, under the law going forward, State officials can also enter into those frays and again try to undertake actions to protect consumers. That could be done now, and it can be done the way the bill is written.

With respect to nonbank banks, under current law, the FTC has the responsibility going into this endeavor of enforcing consumer protections. They would have the responsibility of enforcing the protections of the rules promulgated by the consumer bureau. There is a good chance that going forward the FTC will also have responsibility for enforcing the consumer protections for the nonbank banks. Credit unions, correct me if I am wrong, I think the responsibility there lies with the NCUA. They are the safety and soundness regulators for credit unions, and they are also the responsible regulator for consumer protection. I am not sure that will change.

What will change is they will have some additional rules and regulations promulgated by the consumer bureau to enforce at least that much. This is where we have gotten into a big debate.

The question is, How about national banks that operate, in some cases, in all 50 States? Who is going to enforce the rules to protect consumers from them?

The way it has worked for years, we followed the guidance of two Supreme Court decisions in this regard. One of them is called *Barnett Bank*. It has been a part of the case law for about 14 years. The other is called *Cuomo v. Clearinghouse*. I am not sure why. That is what it is called.

Essentially, the first case law under *Barnett* attempts to say: We have these

national banks. They are actually supervised by the Office of the Comptroller of the Currency. For the most part, States want to come in and exert their own desire and their own will and they can do that, to some extent, under current law. But when they come in and try to exert influence over national banks, if the national banks think the State is out of line, they can go to court and say: No, the State can't do this. This is preempted. This is something that is governed by the Federal Government, by our regulator, the OCC or by this new regulator. If the national banks think that what a State is trying to do, under *Barnett Bank*, if they think it is out of order, inappropriate, not permitted, it is preempted, they can go to their primary regulator, the OCC. That is what they can do now. If the bank thinks the States are acting in an inappropriate way, inconsistent with the *Barnett* ruling, the national banks can go to the OCC or they can go into court to have it cleared up. That is current law. That is the *Barnett Bank* ruling in its simplest form. What we do in this compromise is to retain that language, essentially to retain that language or the spirit therein. Where we make a change with respect to the amendment Senator CORKER offers today and that he and I and others had offered to introduce last week, we make a change with respect to who else can enforce the rules and regulations among national banks that are promulgated by this new consumer bureau.

What we have said is, State officials and the AGs can enforce the rules and regulations of the consumer bureau. They can do that. Can they conduct class action lawsuits against with respect to the rules and regulations? They can't do that. Can they go across State lines? Can the attorney general from Alabama go into Florida and try to enforce the rules across State lines? The AGs can't do that. But what they can do under our compromise is, the State AGs in all 50 States can look at the rules and regulations promulgated by the consumer bureau and enforce those in their own State. For us, that is probably the biggest give with respect to what we introduced last week.

This is a confusing issue. It is arcane. I have tried to explain it to my colleagues with mixed success. I hope I am doing better today on the floor. It is not an easily understood issue.

For me, the question is this: If we are going to have national banks—and we have had them for 150 years—if there are going to be national standards and a tough regulator, let's make sure the consumer bureau has the resources and authority it needs to enforce these rules for national banks. When people say: What is the problem with letting the AGs come in, here is the problem. I like to use Washington, DC, as an example. I live in Delaware. I go back and forth on the train just about every day. Let's say I lived in Maryland, and let's say I worked in Washington, as we do.

Let's say my bank is home chartered in Virginia. Let's say I travel all over the country, and I use ATM machines in many different States. If you have a situation where the States can impose their own laws or rules or regulations with respect to features of banking and checking accounts, with respect to my ATM cards and access to ATM machines, the fees I have for my debit cards, that authority sort of thing, how would you apply those rules and regulations in this one instance, someone who lives in Maryland, works in Washington, their bank is in Virginia, and they access banking services all over the country? That could be confusing, very confusing. It is not only going to be confusing for the banks themselves, as they try to comply with this patchwork quilt of 50 different rules and regulations, in addition to the national rules and regulations. It is going to be confusing for consumers too.

This is not something we are doing simply to make the banks happy. They are not doing handstands over the amendment I am offering as a side-by-side with the previous Carper-Corker amendment.

I am convinced of this: What we are doing is good for consumers, and it is fair for the banks.

Again, to Senator DODD and his staff, I thank them for working with us. I express my thanks to our Republican colleagues who joined us as cosponsors on the amendment last week and those who support us today.

I retain the remainder of my time.

Mr. JOHNSON. Mr. President, it is the goal of all of us in this body to address the inadequacies in bank regulation that led to the crisis, but also preserve the dual banking system. After many conversations with Senator DODD and his staff, I believe we have found the right balance to preserve Federal preemption for national banks but also allow State AG enforcement of the rules where appropriate. I want to thank Senator DODD for working with us to find common ground.

Throughout the committee consideration and the floor process, I have worked to ensure that our efforts to build strong uniform standards through the new Consumer Financial Protection Bureau were not undermined by ending up with a patchwork of different laws for banks and consumers. As our Nation recovers from the economic crisis, it was important to avoid making it difficult for businesses to operate across State lines, and to prevent consumers already struggling with access to credit from losing access to affordable products and services.

I believe the Carper amendment addresses these concerns while also ensuring the State AGs a role. The Carper amendment provides that preemption determinations are made according to a uniform standard, providing certainty to those that offer financial products and those who use the products. It also codifies the Supreme